

## ENCLOSURE 3A

### Responses to Comments Received on Tentative Waste Discharge Requirements Nursery Products Hawes Composting Facility Issued October 28, 2009

California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the following comments with regard to the proposed Nursery Products Hawes Composting Facility (Facility), Tentative Waste Discharge Requirements issued October 28, 2009. Water Board staff responses are provided below. Responses to Form Letters and comments included with the Form Letters are in Enclosure 3B.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m.</b>		
1	I meant no offense, but felt my questions were not being answered. I understand that regulations, laws and politics constraints your activities. I do find some issues with your answers.	Comment noted.
2	Isn't there a time frame to complete the "additional data" before the hearing?	The 'additional data' referred to was submitted by Nursery Products on October 19, 2009.
3	Nursery Products (NP) has had 3 years to complete this permit and show little urgency to complete the data and more urgency to keep the Barstow residents from speaking against them. How long do they get to stall?	Nursery Products is responsible for obtaining all applicable and required permits prior to site construction and/or operation. Any due dates for information to be submitted by Nursery Products was included in the tentative Waste Discharge Requirements.
4	Did they have permission to dig wells and other holes at the site. CA Fish and Game was not notified and has concerns about where they were digging.	Wells were not constructed at the site. Soil borings were completed in select locations. The submitted Report of Waste Discharge contains information regarding soil borings performed at this location.
5	When is tentative permit due? Isn't it pass due? I was told 180 days prior to the Board meeting was required?	There are no due dates associated with Waste Discharge Requirements. The Water Board has 140 days from the time the application is deemed complete to adopt Waste Discharge Requirements.
6	Was the meeting date moved to accommodate their permit?	No. The Board Meeting was postponed because the chosen meeting location became unavailable and a new location could not be secured in order to accommodate a November 2009 meeting.
7	Why was it not available until Oct 28th?	The Waste Discharge Requirements were available for public review at the earliest date Water Board staff could present them.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
8	If the meeting was not moved, would they still qualify for a regularly scheduled WDR hearing in Nov with the report being unavailable until Oct 28th?	No.
9	Lahontan did comment more in the past and even travelled to the hearings at SB County BOS and MDAQMD hearings to give testimony. Why has Staff shown less concern for the same project now? What has changed?	This project is currently a primary focus of our limited resources.
10	As for the Draft SEIR, the Superior Court Judge said URS failed to do an adequate job on the EIR and it was cancelled with no parts "severable" from the rest. How can Lahontan [SIC] give WDRs to a project that has no EIR or CUP?	<p>The EIR was adopted by the San Bernardino County Board of Supervisors on February 27, 2007, following public review and comment. At that time, a Conditional Use Permit (CUP) was also approved. On March 29, 2007, HelpHinkley.org and the Center for Biological Diversity served and filed a petition for a writ of mandate challenging the adequacy of San Bernardino County's EIR for Nursery Products' proposed composting facility. Judge Vander Feer issued an Order on April 11, 2008, that enjoined the County and Nursery Products from "proceeding with grading, construction, or any other physical implementation of the Project that could result in an adverse change or alteration to the physical environment, unless and until such time as the County has certified and adopted an EIR that complies with CEQA."</p> <p>The Writ ordered further review in two areas: (1) identification and analysis of water supply and (2) further evidence in the administrative record regarding the infeasibility of the enclosed facility alternative. Water quality impacts were analyzed in the EIR, specifically challenged, but fully sustained by the Court. In this case, because the EIR is being litigated, the nature of the Water Board's approval authority as a responsible agency depends on whether an injunction or stay has been granted. Because an injunction has been granted pending a final determination that the EIR complies with CEQA, the Water Board, as a responsible agency, is issuing a conditional approval. A conditional approval constitutes permission to proceed with the project only when there is a final determination that the EIR complies with CEQA, per Public Resources Code, section 21167.3; California Code of Regulations, title 14, section 15233, subdivision (a).</p>

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
11	The URS written EIR appeal is in Court and is expected to be there for some time. The Supplemental EIR has questionable legal standing to even be allowed. Why does Lahonton [SIC] allow NP to move forward without the proper permits?	A notice of preparation of a Supplemental EIR was issued on March 9, 2009, wherein San Bernardino County proposed to address the two aforementioned issues and to update the analysis of greenhouse gas emissions. A supplemental draft EIR was issued for review by the County and circulated for comment by the State Clearinghouse in July 2009 (Schedule Number 2006051021). The Final Supplemental EIR was accepted by the San Bernardino County Planning Commission on December 3, 2009. It is Nursery Products' responsibility to obtain all necessary permits, including a permit to discharge waste from the Water Board. The Water Board may only rule on issues within their authorized jurisdiction, in accordance with the California Water Code.
12	Does Lahonton [SIC] disagree with the Judge's decision?	The Water Board has no opinion regarding the Judge Vander Feer's decision.
13	Can a company file for WDRs if they do not have a certified EIR or CUP?	Yes. However, the Water Board cannot adopt WDRs until the environmental document is certified by the lead agency.
14	A major problem with the cancelled EIR was the water issue. Why wouldn't Lahonton [SIC] comment on water?	The water issue raised was that of water supply (water quantity). In most areas of California, overlying land owners may extract groundwater and put it to beneficial use without approval from the State Water Board or a court. California does not have a permit process for the regulation of groundwater use. However, groundwater may be subject to regulation in accordance with a court decree, provided an area's groundwater basins have been adjudicated. The Water Board is responsible for maintaining water quality, not water quantity.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
15	We have shown you evidence that dust when it gets rewet starts growing very dangerous coliform and worse. With the MWA Recharge ponds downwind from the site, in the 4th highest wind area of CA, wouldn't that be something to comment on?	While these are downwind from the proposed location, the two closest recharge locations are the Hodge and Lenwood Recharge sites, at approximately 10 and 11 miles away, respectively. The biosolids to be composted onsite are to be treated prior to acceptance at the Facility, indicating the pathogens have been reduced. The treated biosolids will be incorporated into windrows within four hours of being delivered to the site. Nursery Products is required to operate in accordance with the guidelines specified in Code of Federal Regulations, title 40, Part 503. Mitigation measures to control airborne pathogen movement include misting or spraying of compost piles when turning the windrows and washing down vehicles and equipment at regular intervals.
16	So Lahonton [SIC] has no concerns except smell? Smell is Lahonton's [SIC] Staff [SIC] greatest concern?	Water Board staff reviewed both the Draft EIR and Draft Supplemental EIR, and commented appropriately, as shown in our comment letters dated November 13, 2006 and August 24, 2009, respectively. As shown in these comment letters, Water Board staff was concerned about many water quality issues, as well as the issue of odor. Additional information was presented in the Report of Waste Discharge, submitted by Nursery Products, that addressed our water quality concerns.
17	The site sits on a major bathymetric contour. How will the 1000 year storm event enlarge the streambed that runs through the middle of the site?	The term 'bathymetric' applies to the measurement of water depth within a water body like an ocean or lake. A storm event will not enlarge this small drainage feature as this area will be part of the graded facility. Nursery Products has proposed to construct a berm around the entire facility so that any stormwater that may flow towards the site will be prevented from flowing onto the Facility. The Surface Impoundments will be designed to contain the volume of water from a 1,000 year storm event.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
18	How big will the toxic ponds be? How deep? How wide?	The wastes on the site are classified as a designated waste, not toxic waste. The Class II Surface Impoundments will hold the volume of water anticipated to run off the site in a 100-year storm event in addition to the volume of water anticipated to fall on the Surface Impoundments in a 1,000-year storm event. The exact dimensions of the Surface Impoundments will be provided to Water Board staff by May 30, 2010, in the Surface Impoundment Design Plan, as required by the Waste Discharge Requirements for this facility.
19	How long will water be stored there? 30 days?	The CUP, prepared by the County of San Bernardino, specifies that water is not to be stored in the Surface Impoundments for any longer than 30 days. The Monitoring and Reporting Program requires monitoring of the Surface Impoundments.
20	This site is on a major international flyway for migratory birds and is 8 miles from Harper Lake bird sanctuary. Without a complete cover, what will keep the birds from landing in the toxic pond and carrying that water to other water sources? Is this a Lahonton [SIC] concern?	The Surface Impoundments are to contain designated waste, not toxic waste. Water will be removed from the Surface Impoundments within 30 days such that it does not attract water fowl.
21	If the pond sides are breached and the water flows toward the Mojave River and mixes with the water that is sometimes running, would that concern Lahonton [SIC]?	Due to topographical constraints, any water exiting this facility would flow towards Harper Dry Lake, not the Mojave River. Nonetheless, the Facility will be surrounded entirely by a berm, which will prevent stormwater from running onto or off of the site. In addition, California Code of Regulations, title 27, and the WDRs require that the surface impoundments maintain at least two feet of freeboard.
22	Could NP fix the problem?	Per the Waste Discharge Requirements, Nursery Products would be required to address any violation of the permit.
23	Does NP as an LLC has the resources?	Per the Waste Discharge Requirements, Nursery Products is required to obtain financial assurance mechanisms for closure as well as cleanup of any potential future releases at the Hawes Composting Facility.
24	If they go bankrupt, who will pay for this cleanup? County, State, or Lahonton [SIC]? Why not a requirement for a large bond to be held in case problems do occur?	See response to Comment 23.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
25	Remember how NP left Adelanto without paying their legal bills, because they said they couldn't in my opinion.	Comment noted.
26	Does the history of the applicant or history of this type of project have any effect on the their conditions.	Water Board staff evaluated Waste Discharge Requirements of several composting facilities throughout the state and used that knowledge in the generation of the Waste Discharge Requirements for this site. We have no record of any violations by Nursery Products at the Adelanto facility pertaining to water quality impacts to groundwater.
27	Biogro in Antelope Acres (1998) had violations as did NP in Adelanto. Doesn't that make a difference?	Violations by other dischargers, such as Biogro, have no bearing on this project. The findings contained in Waste Discharge Requirements are based on the information presented in a submitted Report of Waste Discharge, in response to the proposed site construction and the characteristics of the waste on the site. Historical violations by an applicant can be considered if they are germane to the new permitting action; however, we have no record of violations at the Nursery Products facility in Adelanto relating to water quality impacts to groundwater.
28	If shown that these open air type of facilities are a danger to water quality, couldn't Lahonton [SIC] require enclosure?	Yes, if the EIR for this project specified enclosure as a mitigation measure to protect water quality. However, in this case, the EIR did not find that enclosure is required.
29	We understand that NP says it is not cost effective, but do profits weigh into Lahonton's [SIC] permits and conditions?	While economic considerations are evaluated in the process of generating Waste Discharge Requirements for all facilities, our first priority is to protect water quality in compliance with our Basin Plan as well as other applicable laws, regulations, and statutes.
30	The SEIR was done by a different company than URS. Does Lahonton [SIC] have any comments about the questionable data as shown by MWA comments?	The data Mojave Water Agency called into question was the amount of water Nursery Products stated to be required at the site. This is an issue of water quantity, not water quality. As discussed in previous comments, water quantity is not in the jurisdiction of the Water Board.
31	Has Lahonton [SIC] Staff read the comments by MWA?	Water Board staff has reviewed the comments by Mojave Water Agency regarding the Draft EIR and on the NOP.

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<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
32	Does Lahonton [SIC] still stand by the details and facts in the Draft SEIR?	As a Responsible Agency, we initially rely on the EIR as it pertains to issues within our jurisdiction. However, we conduct our own independent evaluation and may impose additional mitigation measures within our jurisdiction.
33	Why do the ponds for the Sierra Suntower project have all the liner protections and NP does not have the same standards and the water in NP ponds will be more toxic?	The proposed Surface Impoundments at the Sierra Suntower facility, as well as the Nursery Products Hawes Composting facility, are required to meet the prescriptive standards or an equivalent level of protection, as specified in California Code of Regulations, title 27, for Class II Surface Impoundments. Discharges to the Surface Impoundments at the Nursery Products facility have been classified as a designated waste, not a toxic waste. As presented in the WDRs, Nursery Products Surface Impoundments must be constructed and maintained in accordance with California Code of Regulations, title 27 requirements.
34	You give NP and their counsel and consultants sit down meetings so they can find the easiest and cheapest way to construct their Sludge dump, yet we as the affected population are not allowed to speak to the Board and at the hearing are limited to 3 minutes. Shouldn't you meet with HelpHinkley, our counsel, Barstow officials and Barstow School Officials, all of who have shown concern and all will be negatively affected by the Sludge project?	Water Board staff may meet with each applicant, or the public, as requested, to discuss site-specific information that will assist us in writing a permit. Water Board staff meets with interested agencies and/or private groups or individuals for discussions of water quality related issues, if requested. At the public hearing during the March Board Meeting, members of the public will be given an opportunity to speak. Your organization will be given 15 minutes.
35	Why are the profits of NP more important to Lahonton [SIC] than the potential danger to those communities that will be clearly affected by the Sludge dust and emissions?	The Water Board is charged with protection of water quality and the environment; as such, a company's profits have no bearing on permit issuance or permit requirements. The WDRs for this project comply with appropriate regulations and are protective of water quality.
36	Will the "compost pads" meet land fill standards as requested by the Board of Supervisors?	The compost pads will be constructed to meet the performance standards in CCR, title 27, for a Class II Waste Pile and, thus, will be protective of water quality.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
37	Will the trucks be washed after dumping the toxic sludge?	Toxic sludge will not be allowed to be brought onto the site. Each load of treated biosolids must not pose a public health risk and must meet pathogen reduction standards contained in the Code of Federal Regulations, Title 40, Part 503 regulations. Additionally, per the Report of Waste Discharge, "all biosolids deliveries must be scheduled in advance and laboratory analysis must be provided before the delivery is scheduled." As a mitigation measure to reduce pathogens, all vehicles and equipment will be washed at regular intervals.
38	Will the access road be paved as requested by the Board of Supervisors?	The Discharger has proposed to apply crushed rock to the facility entrance and access roads throughout the site.
39	Can Lahonton [SIC] require enclosure?	Enclosure was not identified in the EIR as a requirement to mitigate water quality concerns from the project. The Water Board could require enclosure if there is evidence that enclosure is necessary to comply with conditions that have been established in the permit to protect water quality.
40	Can Lahonton [SIC] require a clean-up bond?	Yes. The Waste Discharge Requirements specify that financial assurance mechanisms for both closure and cleanup of a potential release be provided.
41	Can Lahonton give a WDR permit to a company without a EIR or CUP?	See response to Comment 10, above.
42	Why was the Nov meeting moved back?	See response to Comment 6, above.
43	If NP loses it's appeal to the cancelled EIR and CUP, will Lahonton [SIC] resind [SIC] the WDR?	If the item is approved by the Board, such an approval would be conditional per Public Resources Code section 21167.3 (a) and California Code of Regulations, title 14, section 15233, subdivision (a).
44	Are there other instances that a company with a history of illegal discharges, and other violations, is given special considerations to get their WDR?	Every applicant is given the same consideration in preparation of applicable Waste Discharge Requirements. Furthermore, Water Board staff is unaware of any violations by Nursery Products at previous locations regarding water quality impacts.
45	Does Lahonton [SIC] need documentation on Biogro in Antelope Acres or NP in Adelanto discharge violations?	Water Board staff does not have record of violations at either location. However, if you have information regarding past water quality violations at these facilities, please provide us with the data.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 1:20 p.m. (continued)</b>		
46	What were the consequences of those violations?	Water Board staff reviewed records for these sites contained in our CIWQS database and have found no record of violations at either location.
47	Can Lahonton [SIC] require independent testing, and record keeping for the NP Hinkley facility? Will they?	The regulatory process is built upon self monitoring with oversight by the Water Board and Water Board staff, who conduct inspections of facilities we regulate to verify compliance with applicable Waste Discharge Requirements and Monitoring and Reporting Programs. The Waste Discharge Requirements and Monitoring and Reporting Program proposed for this facility require that a construction quality assurance plan, construction quality assurance report, monitoring reports, and any other technical reports be certified and signed by a Professional Engineer, a Certified Engineering Geologist, or a Professional Geologist, as appropriate, and that all samples collected for analysis be submitted to a state-certified laboratory.
48	Does Lahonton [SIC] review the history of compliance of an applicant?	Yes, Water Board staff may review the history of compliance of a Discharger prior to bringing Waste Discharge Requirements to the Board for adoption.
49	Was Oct 28th the deadline for a spot on the Dec Lahonton [SIC] agenda?	No.
50	Where and to whom do I submit comments and studied to be placed on the record for the Board to consider before the Dec vote?	Comments may be sent to the Victorville office of the Lahontan Water Board, to the attention of Brianna Bergen. Our address is 14440 Civic Drive, Victorville, CA 92392. Ms. Bergen may be contacted via telephone at 760.241.7305 or via email at bbergen@waterboards.ca.gov.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 2, 2009, 2:13 p.m.</b>		
1	The only contact for the NP permit "Zimmerman" is not correct on the Lahonton [SIC] website. With Patrice out so long during this critical time, who gets and reads the documentation I want considered for this permit and to be seen by the Board.	Brianna Bergen (bbergen@waterboards.ca.gov or 760.241.7305) is the contact person for the Waste Discharge Requirements for Nursery Products Hawes Composting Facility.
2	We are very disappointed in the way this permit process is being taken. Seems like the Staff is working with NP against the public.	Water Board staff work with any discharger to produce waste discharge requirements that are protective of water quality and preserve the beneficial uses of waters of the Lahontan Region, in accordance with the federal Clean Water Act, California Water Code, and the Water Quality Control Plan for the Lahontan Region (Basin Plan). To accomplish this, it is imperative that Water Board staff work with all interested stakeholders including dischargers, agencies, organizations, and concerned members of the public.
3	If I have concerns, do I speak to Harold, State Water Board or ...who?	If you have concerns regarding this project that you feel have not been adequately addressed by staff, please contact Lauri Kemper, the Water Board's Ombudsman, at lkemper@waterboards.ca.gov or 530.542.5436.
4	Without a Certified EIR or CUP, can Lahonton [SIC] give out a discharge permit? A Superior Court Judge has ruled the water analysis for the EIR was inadequate and MWA has said the data is in question and yet Lahonton [SIC] is going out of its way to get NP a permit this year with as little conditions as possible?	See responses to Comments 10 and 11, 11/2/09 email, 1:20 p.m.
5	Was Oct 28th the last day to submit the application to be eligible for the Dec meeting?	No.
6	Would NP have been able to be on the agenda if the date was not moved?	Yes.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 16, 2009, 1:30 p.m.</b>		
1	Still need more copies sent to interested and impacted residents of Hinkley and Barstow.	The Waste Discharge Requirements for the Nursery Products Hawes Composting Facility are posted on the Water Board website at <a href="http://www.waterboards.ca.gov/lahontan/board_info/agenda/2009/docs/nurseryproducts.pdf">http://www.waterboards.ca.gov/lahontan/board_info/agenda/2009/docs/nurseryproducts.pdf</a> . Requests for copies may be made to Brianna Bergen directly and a copy will be sent.
2	Which paper was the notice published in? What dates?	The public notice for Waste Discharge Requirements for Nursery Products was published in the Desert Dispatch on October 19, 2009.
3	Still need a Spanish version printed and translators available. Lahontan has done this for PGE issues, so I know it is not difficult.	Although Spanish versions of the proposed Waste Discharge Requirements will not be prepared, a translator will be available at the Board meeting to answer questions.
4	Even with the controversial Supplemental EIR vote on Dec 3rd, how can Lahontan give WDRs for company without a permit or legal CEQA certifications?	See response to Comment 10 and 11, 11/2/09 email, 1:20 p.m.
5	When did SB County tell you the Planning Commission vote? The Final SEIR has not yet been released.	Representatives of San Bernardino County Land Use Services informed Water Board staff of the planned certification date in a phone call on October 15, 2009.
6	When did you reschedule the meeting to Dec? Is this a rare case, because I have not known this to happen before.	The decision to postpone the November Board Meeting until December was made in mid-October due to problems securing a room in which to hold the board meeting.
7	With 2 of 6 agenda items in Hinkley, how can Lahontan justify moving the meeting farther away for Hinkley.	The March 2010 Board Meeting is scheduled to be held on March 10 and 11, 2010, in Victorville.
8	Since you are closed on Friday, do we get until the end of Nov 23rd to comment? Can we get more time?	The date posted in the public notice indicated comments can be received until November 27, 2009. We accept comments after due dates, but cannot guarantee they will be considered for incorporation into the proposed Waste Discharge Requirements. As you may be aware, the deadline for comments on the current tentative Waste Discharge Requirements for Nursery Products is now January 19, 2010 (January 18, 2010, is a state holiday).

Comment Number	Comment	Response
9	Can the meeting be moved until a regularly scheduled meeting?	At this time, the Waste Discharge Requirements for this site are scheduled to be heard at the March 10 & 11, 2010 meeting. The December 2009 meeting was a regular board meeting, postponed from the November date, not a special meeting.
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009</b>		
1	Concerning the California Regional Water Quality Control Board, Lahontan Region, Tentative Waste Discharge Requirements for Nursery Products Hawes Site Composting Facility, San Bernardino County, OCT. 28, 2009. The requirements repeatedly throughout refer to monitoring and actions taken in event of leakage or surface and/or groundwater contamination being detected at or because of activities at the Hawes site. What I and other citizens ask is that no such risk of leakage or contamination of water be allowed to exist to begin with.	The Waste Discharge Requirements being proposed require containment of leachate from the composting pad (waste pile) and stormwater from the entire site. Monitoring is required to ensure that the containment structures are functioning properly and are not leaking. The Waste Discharge Requirements specify contingent actions that must be implemented by the discharger if monitoring indicates a problem with the containment structures.
2	Because of the massive size of the Hawes facility (80-160 acres), and its unenclosed mode of operation, I believe the only predictable outcome will be surface or groundwater contamination spreading via water, wind, person, vehicle or vector.	Several mitigation measures are required to ensure surface or groundwater contamination does not occur. The Waste Discharge Requirements require monitoring to ensure the measures implemented prevent contamination or a condition of nuisance. If required monitoring indicates evidence of a release, the proposed Waste Discharge Requirements specify notification procedures and response actions.
3	The Hawes site is located upon a region of interconnected groundwater basins and sub-basins whose waters communicate with each other and are internally draining with no outlet to a sea or ocean. Contaminants will accumulate with no path to flush or dilute them, which will allow contaminants to accumulate and impact all basins and sub-basins, including the Mojave River system. (Please consult my past letters sent to CRWQCB Lahontan on this subject.)	See response to Comment 1, above.

Comment Number	Comment	Response
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009</b>		
4	I and other citizens are also concerned of the threat of overdraft of water sources serving existing business and homes in the regions surrounding the Nursery Products LLC Hawes site, especially in respect to continuing drought conditions. This concerns both overdraft of the Mojave River basin waters and waters derived from direction of Panamint and Sierra sources. I do not believe that tentative requirements that still allow massive amounts of water use and evaporation will protect us from overdraft or promote water conservation.	The Waste Discharge Requirements are for the purposes of protecting water quality; water quantity issues are outside the regulatory purview of the Water Board. In most areas of California, overlying land owners may extract groundwater and put it to beneficial use without approval from the State Board or a court. California does not have a permit process for the regulation of groundwater use. However, groundwater use is subject to regulation in accordance with a court decree.
5	I do not agree with the tentative requirements for Hawes as described on Page 3, Section 7, and repeated on Page 22. These state the surface impoundments must contain the maximum volumn [sic] of water anticipated to run-off from the facility for a 100 year 24 hour event, in addition to the volum [sic] anticipated for the surface impoundments areas in a 1000- year, 24-hour storm event, while retaining two feet of freeboard.	Comment noted. These requirements are specified in California Code of Regulations, title 27 for Class II facilities.
6	On Sept. 17, 2009 the Calif. Regional Water Quality Control Board, Lahontan Region, orginally required containment for run-off from an 80 acre facility over a period of 30 days storm. The 100 yr and 1000 year 24 hour events might suffice for containment of some flashflood events, or even week long rain, but fail to anticipate the on-off rain sequences that by my past experience (I have lived in Hinkley for over 36 years) would justify the 30 day rain or storm event.	Please see response to Comment 5, above.

Comment Number	Comment	Response
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009</b>		
7	<p>Without anticipating longer rain events the Hawes tentative requirements fail to make proper allowance for complete saturation of the piles and windrows of sludge and composting materials, or the complete saturation of all roads, impoundments, and all other surface areas. After complete saturation the concern is that the piles or windrows themselves will come apart and flow in such a way as to completely fill the impoundment ponds and allow following rains to overflow water and contaminants from the impoundments.</p> <p>The windrows or piles could also come apart after complete saturation followed by continued rain, and move or flow in such a way as to create their own channels that will allow water and contaminants to flow within and outside the Hawes site, ignoring the original impoundment and/or drainage purpose and design.</p>	<p>It is recognized that flash floods occur in this area. To that end, the Discharger is placing a berm around the entire site diverting stormwater flows around the Facility. This berm is required to divert stormwater flows from a 100-year event, per the requirements in California Code of Regulations, title 27, section 20250, subdivision c. Additionally, it is unlikely that the windrows themselves could disintegrate due to saturation. The windrows form a crust on the surface which impedes water infiltration, and there has been no observation of windrows disintegrating at similar facilities.</p>
8	<p>Because of the existence of faults in the Hawes region, and because of the interconnected water basins and sub-basins existing in the lands surrounding the Hawes site as an internally draining system subject to accumulative contamination risk, it would be logical to require monthly tests and inspections rather than the annual or quarterly tests and inspections mentioned throughout the tentative requirements for the Hawes site.</p>	<p>While sampling and analysis will be performed on a quarterly and annual basis, monitoring of physical parameters, as specified in the Monitoring and Reporting Program, is to be conducted on a more frequent basis. For example, inspection for liquid in the leak detection monitoring sumps is to be performed weekly. The faults in the area move at approximately 0.8 mm/year. As such, the rate of movement would have a limited effect on the site between sampling events.</p>

Comment Number	Comment	Response
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009 (Continued)</b>		
9	<p>The tentatives Hawes site requirements still allow unenclosed impoundments and ponds that will still allow contamination of wildlife by exposing visiting migratory or indigenous birds and other animals. Insects exposed to contaminants and vector control pesticides will be consumed by animals visiting the site or when the insects travel off-site. Both insects and wildlife will serve to transport contaminants (bacteria or virus in some cases) to surface water in regions surrounding Hawes, or even out of County or State in respect to migratory birds.</p>	<p>As part of their Conditional Use Permit, San Bernardino County requires Nursery Products to remove any water in the surface impoundments within 30 days to prevent birds from being attracted to the Facility. Additionally, birds are not anticipated to be attracted to the site because food waste will not be processed on site. Per the EIR, "Ravens were not recorded at a similar composting site in Adelanto over a recent 5-year monitoring period of the facility during monthly inspections by the San Bernardino County Environmental Health." Should flies or other vectors be observed on site, a professional service will be contracted to mitigate the issue.</p>
10	<p>Covering the piles or windrows might provide protection in light or medium rain events. During longer or flashflood rain events absorption of water and escape of contaminants may still occur at base of piles or windrows, which could absorb water at base like sponge until saturation occurs. Erosion of entire piles or windrows could occur at their base, especially during flashflood event, which could strip away any covering, and tend to move large amounts of material by sheer weight and inertia, possessing the ability to drive water and material up and over impoundment embankments and erode impoundment embankments away. Absorption of water at base of piles or windrows could cause liquification [sic] that due to height of windrows or piles could cause entire windrow or pile to collapse by gravity, exposing materials to further water transportation.</p> <p>Covering of piles or windrows is also still subject to removal by 30-60plus mph winds common to site at Hawes, contaminants then being removed by water or leaving site as fugitive dust to impact surface and groundwater of surrounding region.</p>	<p>See response to Comments 2 and 7, above. In addition, the Conditional Use Permit issued by San Bernardino county precludes the windrows from being turned when winds speeds are greater than 30 mph to prevent dust from blowing off site. The Waste Discharge Requirements require Nursery Products to use water for dust control, and to construct a berm around the entire Facility to prevent any material stored on site from leaving the Facility. Liquefaction is not anticipated to be a problem at this site. Further, the Waste Discharge Requirements require that the Waste Pile (composting pad) will consist of an area of prepared subgrade of no less than 12 inches of engineered native material, moisture conditioned, and compacted to a minimum relative compaction of 90 percent, per American Society of Testing and Materials (ASTM) Test Method D1557. The Waste Discharge Requirements also require that the engineered pad will be sloped to prevent ponding such that all stormwater will flow to the Surface Impoundments.</p>

Comment Number	Comment	Response
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009 (Continued)</b>		
11	Complete enclosure of facility will go a long way to prevent above mentioned problems. Not building or operating such a massive composting site at Hawes, in such an ill chosen location, would be even smarter in my opinion.	Comment noted.
12	The list of persons the Tentative Requirements for the Nursery Products LLC Hawes site was sent to was insultingly limited given the enormous amount of opposition the site has generated.	Water Board staff recognized your concern and expanded the mailing list for this project by including all those individuals/organizations who received the EIR notices. Additionally, as individual requests were received, additional persons were added to the mailing list for this permit. The Waste Discharge Requirements were posted on the Water Board's website for public review. Further, the public notice for the hearing of the Waste Discharge Requirements was published in the Desert Dispatch.
13	This entire process should have become a very public process, since it is the public/people of the Mojave Desert it will impact, and not just the Business involved and permitting boards.	See response to Comment 12, above. The December 2009 version of the Waste Discharge Requirements were sent to a list of over 600 interested parties and posted on the Water Board's website for public review. Public notice for the hearing to be held by the Water Board in March 2010 was noticed in the Desert Dispatch and the San Bernardino County Sun.
14	I received no notification of the Tentative Requirements, and would not have known if not informed by my friend Joan Bird. I wrote Lahontan about the Hawes issue in the past, did you round file my letters?	See response to Comments 12 and 13, above. Please be assured that all letters from the public are filed in project files.
15	I demand better representation by my state boards, and because I live in a desert in a drought stricken State I especially want better representation by my Water Board.	Comment noted.
16	We of the Mojave Desert have the same rights and need for health and quality of life as the people in other parts of this State.	Comment noted.
17	It's insulting enough that we are being forced to take other peoples sludge and garbage in our own backyard.	Comment noted.

Comment Number	Comment	Response
<b>Mark Orr, letter dated November 18, 2009, received November 19, 2009 (Continued)</b>		
18	Chromium 6 ruined a large portion of Hinkley, and Barstow now has the SoupMine [SIC] Road contamination. Does Lahontan intend to allow my entire Desert home to be contaminated.	No. The Water Board is responsible for protecting the beneficial uses of waters within the Lahontan Region.
19	When will we stop shipping other peoples problems around, rather than solving the problems at their source.	Comment noted.
<b>Mark Orr, letter dated November 20, 2009, received November 23, 2009</b>		
1	Correction to letter from Mark Orr sent Nov 18, 2009 on same subject, Page 2 bottom paragraph. I believe it was the <u>Mojave Water Agency</u> I originally received information from requiring containment for run-off from an 80-acre Facility over a period of 30 days.	Comment noted.
2	This does not change my <u>do not concur</u> opinion.	Comment noted.
3	I still contend 30 day event is more realistic scenerio [SIC] by my past experiences of storm activity in this region. Rest of paragraph and letter remains same and unchanged.	Please see responses to Comments 6 and 7, Mark Orr letter dated November 18, 2009.
<b>Lynda L. Brothers, letter dated November 20, 2009</b>		
1	At the beginning of the Findings Section, we request the addition of language making it clear that the Findings are solely for the purpose of the Permit. We suggest the following: The Findings made and Definitions used in this Board Order No. R6V-2009 – [TENTATIVE] are solely for the purpose of this Order and do not apply and shall not be used for any other regulatory or legal purposes. The Findings are made by the Water Board based solely upon matters within their jurisdiction.	The Water Board has no legal obligation and there is no established practice or precedent within the Water Board to make these suggested changes. The Water Board cannot preclude others from using the Findings and Definitions listed in the Tentative Waste Discharge Requirements. Furthermore, this language is not necessary in order for the Water Board to consider adoption of the proposed Order. Consequently, these suggested changes will not be incorporated into the proposed Order.
2	In Paragraph 6, please add the word “annually” at the end of the last sentence. The sentence will then read: “...400,000 cubic yards annually.”	The sentence has been modified.
3	In Paragraphs 7, 9, and anywhere else it is so used, please remove the word “stored” and replace it with the word “located.” No storage of wastes will occur on the site.	Water Board staff does not concur and believes the word “stored” is appropriate.

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
4	In Paragraph 7 remove the word "Process" where it is used to modify wastewater. For purposes of Water Board jurisdiction Nursery Products has agreed that there is a potential "waste" but the compost process does not produce process wastewater.	The sentence has been modified.
5	In Paragraph 18, please add the following sentence: "In the single deep boring, at depths ranging from about 200 Ft bgs to 365 ft bgs presence of a very low permeability layer was confirmed."	The sentence has been modified.
6	In Paragraph 19, please revise the last sentence to read as follows: "...on March 19, 2009, depth to groundwater was measured as 365 ft bgs in boring 13; the next day the depth within the borehole has risen to 305.1 ft bgs."	The sentence has been modified.
7	In Paragraph 27, please revise the last sentence to read as follows: "The single nearest residence is located approximately 1.5 miles east of the Facility; thereafter the next closest residence is over eight (8) miles away."	The sentence has been modified.
8	Paragraph 29 seems wholly duplicative of Paragraph 17 and should be removed.	Paragraph 29 was incorporated into a new Paragraph 18.
9	In Paragraph 31, please remove the last sentence of this paragraph. Earlier in the same paragraph it states that financial assurance must be provided prior to "operation" and inclusion of the date, February 28, 2010 is confusing and unnecessary.	The paragraphs have been modified for consistency and clarity.
10	In the Order, at Section V.A. entitled <u>Financial Assurance Documents</u> please remove "At least 60 days" and begin the sentence with "Prior." This change makes the Order consistent with the findings in Paragraph 31 which requires financial assurance to be in place prior to operation not 60 days prior to operation.	The paragraphs have been modified for consistency and clarity.
11	In the Order, at Section V C., No. 1 and No. 2 change "January 30, 2010" to February 28, 2010 to make the due date in the Order consistent with the date in the Findings.	The paragraphs have been modified for consistency and clarity.

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
12	<p>FINDINGS, PARAGRAPH 33, at page 12. As drafted this paragraph is inaccurate. Please add the following at the beginning of the second paragraph:</p> <p>The Final Environmental Impact Report was adopted by the San Bernardino County (County) Board of Supervisors on February 27, 2007 after extensive public review and comment. At that time, a Conditional Use Permit was also approved. The CEQA decisions were challenged in Superior Court (Court) and on April 11, 2008, the Court issued A Statement of Decision which was followed by a Writ filed on June 23, 2008. The Writ ordered further review in two areas: (1) identification and analysis of water supply and (2) further evidence in the administrative record regarding the infeasibility of the enclosed facility alternative. In all other respects the CEQA analysis was sustained. Water quality impacts were fully analyzed in the FEIR, specifically challenged but fully sustained by the Court. The RWQCB finds that no additional CEQA analysis of water quality will be necessary for the issuance of this Permit.</p> <p>A notice of preparation of a Supplemental EIR was issued on March 9, 2009 wherein the County proposed to address those two issues and to update the analysis of green house gas emissions.</p>	The section has been modified.

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
13	<p data-bbox="402 310 932 426">MONITORING AND REPORTING PROGRAM PAGE 3 SECTION IIA1- SURFACE IMPOUNDMENT MONITORING WASTEWATER</p> <p data-bbox="402 491 932 1220">The tentative monitoring and reporting program (MRP) states that the liquid in the surface impoundments must be monitored quarterly and analyzed to determine the concentrations of parameters described in Table 1 (Attachment A). The Report of Waste Discharge (ROWD) submitted by Nursery Products intentionally did not include sampling of the liquid in the surface impoundments. The surface impoundments are solely for the collection of rainwater and rainwater runoff from the site and will be emptied of liquid regularly. As a mitigation measure under CEQA imposed by the County of San Bernardino, any water in the retention basins must be removed within 30 days of incidence. Since all of the liquid will be removed regularly and promptly, the requirement to sample such liquid is meaningless and impossible to fulfill when the impoundments are dry. There will not be liquid to sample. Nursery Products requests that this sampling requirement in the MRP be deleted.</p> <p data-bbox="402 1285 932 1493">We note that removal of this requirement does nothing to lessen the protection to the environment or the waters of the State of California because the absence of water to sample in the retention basins also means the absence of water as a potential pollutant source.</p>	<p data-bbox="954 310 1442 1129">Sampling of material in the Surface Impoundments is included for several reasons. Sampling of the material in the Surface Impoundments must be performed to show that the material being discharged to the Class II Surface Impoundments, designed to contain designated waste, is not hazardous waste. CCR, title 27, section 20420, subdivision (e)(1) states that the Water Board shall specify monitoring parameters based on the types, quantities, and concentrations of constituents in wastes managed at the Units. Additionally, Nursery Products proposes to use the water collected in the Surface Impoundments as part of mitigation for dust control on the windrows on the Waste Pile. Hazardous wastes may not be discharged to the Waste Pile. In order to correctly characterize the waste managed at the Facility, sampling must be performed. A sentence has been added to the section noting that if the Surface Impoundment is dry, indicate that it is dry on the monitoring report.</p>

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
14	<p data-bbox="402 344 932 464">MONITORING AND REPORTING PROGRAM PAGE 4 SECTION IIA4 - SURFACE IMPOUNDMENT MONITORING SLUDGE.</p> <p data-bbox="402 499 932 1226">The MRP states that the sludge in the surface impoundments must be sampled and monitored annually and analyzed to determine the concentrations of parameters described in Table 1 (Attachment A). The ROWD submitted by Nursery Products intentionally did not include sampling of the sludge of the surface impoundments. The surface impoundments will be emptied of any sludge regularly. Any liquid must be removed within 30 days of incidence and any sludge will be regularly removed as well. The surface impoundments are solely for the collection of rainwater and rainwater runoff from the site. The 30 day removal requirement was imposed by the County as a mitigation measure under CEQA. Since all of the sludge will be regularly and promptly removed, the requirement the sample such sludge is meaningless and impossible to fulfill. There will not be sludge to sample. Nursery Products requests that this sampling requirement in the MRP be deleted.</p> <p data-bbox="402 1262 932 1444">We note that removal of this requirement does nothing to lessen the protection to the environment or the waters of the State of California because the absence of sludge to sample in the retention basins also means the absence of sludge as a pollutant source.</p>	<p data-bbox="954 344 1435 464">Please see response to Comment 13, above. A sentence is included in the section noting that samples shall only be collected if sludge is present.</p>

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
15	<p>WDR REQUIREMENTS PAGE 17 SECTION D - LEAK DETECTION MONITORING SUMPS &amp; MONITORING AND REPORTING PROGRAM PAGE 4 SECTION 3 - LEAK DETECTION MONITORING SUMPS.</p> <p>Both referenced sections require Nursery Products to annually test the Leak Detection Monitoring Sumps (LDMS) in order to demonstrate proper operation. It is our understanding that it is not possible to test each LDMS. Once the surface impoundment liners are installed the LDMS become closed systems. This monitoring limitation imposed in the Permit is typically applied to a Leachate Collection and Removal System (LCRS) and not to a LDMS. Nursery Products requests that the annual leak detection test requirement be removed from both sections. The LDMS will be monitored weekly per the conditions of the MRP.</p>	<p>The LDMS will be monitored weekly to determine if water is present in order to determine if the liners of the Surface Impoundments are functioning. The requirement for annual testing of functionality of the LDMS has been removed.</p>
16	<p>MONITORING AND REPORTING PROGRAM PAGE 4, SECTION 3a- LEAK DETECTION MONITORING SUMPS.</p> <p>The referenced section states that Nursery Products must visually inspect for liquid in the LDMS on a weekly basis. Nursery Products requests that the monitoring be with a water meter and that the reference to visual inspection be deleted.</p>	<p>The reference to visual inspection has been removed. The inspection for liquid can be performed with a water meter.</p>
17	<p>MONITORING AND REPORTING PROGRAM PAGE 5 SECTION B - WASTE PILE MONITORING</p> <p>The MRP states that the discharger must collect background data of the native engineered fill material for the monitoring parameters and constituents of concern listed in Table 3 (Attachment C) prior to the construction of the composting pad. Nursery Products proposes to collect samples across the waste pile area and composite the samples together to characterize the soil below the waste pile. This approach is appropriate for the uniform soils at the site.</p>	<p>Although this approach is appropriate for uniform soils prior to construction of the composting pad, this approach should not be taken for sampling the required minimum of 10 background soil samples. Because this site is open desert land, elicit discharges could have occurred to the 80-acre site through time. In order to assure that elicit discharges have not occurred, discrete sampling of native background soils is required.</p>

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
18	<p data-bbox="402 300 899 380">MONITORING AND REPORTING PROGRAM PAGE 5 SECTION B - WASTE PILE MONITORING</p> <p data-bbox="402 411 927 1010">The MRR [sic] requirement for monitoring of the waste pile is inconsistent with the ROWD submitted by Nursery Products. The MRP requires that annually a minimum of ten soil samples from approved locations within the waste pile must be collected at six-inch intervals to a depth of 1.5 feet and the samples collected from the 6-inch and 1-foot interval be sent to the laboratory for analyses to determine the concentrations of monitoring parameters in Table 3 (Attachment C). The ROWD stated that these samples will be analyzed for arsenic, copper, lead, mercury, molybdenum, nickel, selenium, zinc, nitrate, and phosphorus. The ROWD then stated that the results will be compared to the levels listed in 40 CFR 503.13, Table 1. This monitoring requirement in the MRP is excessive and not well thought out. The purpose of this monitoring is to evaluate the potential for migration of leachate through the pad. As such the requirement would be more effective and meaningful if it were changed in two ways.</p> <p data-bbox="402 1041 927 1612">First, annual sampling should be for a much more limited subset of analytes with emphasis on compounds that present a meaningful representation of the leachate. The best surrogate chemicals for leachate are the metals. The CEQA mitigation measures recognized this and required sampling of metals. The MRP requires that Nursery Products test for many more parameters than were proposed in the ROWD. Nursery Products requests that the sampling parameters in the MRP be consistent with the ROWD and that all other parameters be removed. Secondly, this monitoring requirement was not well conceived or well thought through with regard to the depth of samples. Obviously if a shallow sample shows no elevated levels the deeper sample in the same location will not show elevated levels. Therefore Nursery Products requests that it has the option to sample only at the 6 inch depth, await the results before sampling at the 12 inch depth.</p> <p data-bbox="402 1644 911 1724">In addition, if after a number of years, results consistently show absence of metals in the pad, this requirement should be limited even further.</p>	<p data-bbox="954 300 1442 663">CCR, title 27, section 20420, subdivision (e)(1) states that the RWQCB shall specify monitoring parameters based on the types, quantities, and concentrations of constituents in wastes managed at the Units. Hazardous wastes may not be discharged to the Waste Pile. In order to correctly characterize the waste managed at the Facility, sampling must be performed. The section has been modified to reflect an iterative sampling approach.</p>

Comment Number	Comment	Response
<b>Lynda L. Brothers, letter dated November 20, 2009 (continued)</b>		
19	<p>MONITORING AND REPORTING PROGRAM ATTACHMENT C - SOIL MONITORING.</p> <p>MBAS, TDS, and total hardness are referenced for soil monitoring and are typically not applicable for soil. Nursery Products requests these constituents be removed from the soil monitoring program.</p>	<p>MBAS, TDS, and total hardness remained sampling requirements for soil. While testing for MBAS is necessary to determine anionic surfactant content of waters and wastewaters, surfactants can also alter the hydraulic characteristics of soils, so the requirement to analyze for MBAS remains unchanged. The requirement for TDS will remain unchanged as TDS is a characteristic of the material to be discharged on the composting pads that exceeds the Water Quality Objectives. The requirement for total hardness will be removed in the Proposed Waste Discharge Requirements as Carbonate, Calcium, Magnesium, Total Alkalinity, Total Anions, and Total Cations remain sampling requirements and thus total hardness is repetitive.</p>
20	<p>MONITORING AND REPORTING PROGRAM PAGE 8 SECTION 2b - DEPTH TO GROUNDWATER</p> <p>Measuring to the nearest 0.01 inch is not practical and Nursery Products requests this be changed to the nearest 0.01 foot.</p>	<p>This reference has been changed to the nearest 0.01 foot.</p>
21	<p>WDR REQUIREMENTS PAGE 3 - DESCRIPTION OF THE SURFACE IMPOUNDMENTS.</p> <p>The section requires that process wastewater generated primarily as a result of the composting process must be disposed to Class II surface impoundments. Nursery Products requests that this statement be deleted because stormwater is addressed previously in the section.</p>	<p>The sentence has been modified.</p>
22	<p>MONITORING AND REPORTING PROGRAM PAGE 5 SECTION C - FACILITY ODOR MONITORING</p> <p>Nursery Products requests that the last sentence be changed to read "Water from an on-site well or from the surface impoundments will be used for dust suppression as necessary to prevent the release of airborne particulates from the Facility."</p>	<p>The language has been added to the dust control section of the tentative Waste Discharge Requirements, and modified in the Monitoring and Reporting Program.</p>

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m.</b>		
1	Please consider these documents for the Nursery Products WDRs and any other permits for Nursery Products LLC or sewage sludge related issues:	Please see below responses for each individual document attached to the email.
	1. "The Dirty Work of Promoting "Recycling" of America's Sewage Sludge" Article by Caroline Snyder, PHD [SIC]	The article contends that some sludge is hazardous but can still be applied to land and evaluates the health effects of land-applied sludge and neighbors of areas with land-applied sludge. However, the Waste Discharge Requirements do not allow Nursery Products to apply sludge directly to land as a fertilizer. Rather, treated biosolids will be mixed with green waste to produce Class A compost.
	2 "Organic Contaminants in Sewage Sludge For Agricultural Use" [SIC]	The article discusses sludge as a land-applied fertilizer. The Waste Discharge Requirements do not allow Nursery Products to apply sludge as a fertilizer. Treated biosolids will be mixed with green waste to produce Class A compost.
	3. "Biocycle What's New in Vessel Composting" [SIC]	This document describes various methods of in-vessel composting systems. The article does not address water quality issues associated with windrow methods. This article is not applicable to the project being considered.
	4. "Compost Air Emissions Health Studies," Cornell Waste Management Institute 2007 [SIC]	This document is a summary of studies performed on health impacts of air emissions. One study noted workers at a compost facility demonstrated health effects. Other studies focused on health complaints of neighbors. While general health complaints were noted, they were not able to be correlated to the concentrations of <i>A.fumigatus</i> ; therefore, the health complaints were not able to be contributed directly to the compost facility.
	5. "The Dispersion of Flies by Flight," Bishop [SIC]	The study found that screwworm flies traveled up to 15 miles. Should flies create a condition of nuisance at the Facility, Nursery Products is required to take appropriate mitigation measures.

	6. "Fly Dispersion From A Rural Mexican Slaughterhouse," Greenberg, 1964 [SIC]	The study found that salmonella-contaminated flies may travel as far as 3 miles in one day. See response to article 5, above.
<b>Comment Number</b>	<b>Comment</b>	<b>Response</b>
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m. (Continued)</b>		
	7. "Firm Ordered to Stop Spreading Sewage Sludge," Berstein, 1998 [SIC]	The article reported that Bio-Gro was ordered to not allow sludge onto the Facility until stormwater measures were implemented. The Waste Discharge Requirements require Nursery Products to construct surface impoundments in compliance with the California Code of Regulations, title 27 requirements. The surface impoundments will be designed to contain stormwater flows onsite. In addition, Nursery Products will construct a berm around the entire Facility. The Facility must be constructed to comply with Waste Discharge Requirements prior to operation of the Facility.
	8. "Compost Operation Red-Lighted Once Again," Maeshiro, 1998 [SIC]	The article reported that Bio-Gro was ordered to not spread sludge as fertilizer until the effects of flooding and runoff were mitigated. The Waste Discharge Requirements require Nursery Products to construct surface impoundments in compliance with the California Code of Regulations, title 27 requirements. The surface impoundments will be designed to contain stormwater flows onsite. In addition, Nursery Products will construct a berm around the entire Facility. The Facility must be constructed to comply with Waste Discharge Requirements prior to operation of the Facility. Furthermore, the Waste Discharge Requirements do not allow Nursery Products to utilize sludge as a fertilizer. Rather, the Waste Discharge Requirements allow Nursery Products to utilize treated biosolids in the composting process.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m. (Continued)</b>		
	9. "Accumulation of Heavy Metals In Plants and Potential phytoremediation of lead by Potato, ...". Antonious, 2007 [SIC]	The study addressed sewage sludge (did not specify if treated or untreated, but was directly land-applied as a fertilizer) and compost comprised of green waste and vegetable waste, and the ability of plants grown with various soil amendments to accumulate metals. The Waste Discharge Requirements do not allow Nursery Products to use sludge as a fertilizer or to use food or vegetable waste. Nursery Products is to use treated biosolids in the composting process along with green waste such as yard trimmings, untreated wood wastes, and natural fiber products. Additionally, the Water Board does not have jurisdiction over the use of finished compost.
	10. "Effect of Temperature on Composting of Sewage Sludge", Nakasaki [SIC]	The study concluded that based on carbon dioxide evolution rates, 60 degrees C (140 degrees F) is the optimal temperature for composting sewage sludge (raw, not treated). Nursery Products will be using treated biosolids in their composting process, and, per EPA 503 regulations, compost windrows must maintain a temperature of 131 degrees F or higher for a pathogen reduction period of 15 days or longer. The Water Board does not have jurisdiction over the processes in place regarding how compost is created.
	11. "Biosolids Tech Fact Sheet" EPA [SIC]	The EPA fact sheet stated that composted biosolids are safe to use.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m. (Continued)</b>		
	12. Center for Biological Diversity comments on project 2006 [SIC]	<p>The Center for Biological Diversity states in this document that the draft EIR, prepared by San Bernardino County, was inadequate based on green house gases, climate change, air quality, and endangered species impacts and analysis.</p> <p>The EIR was adopted by the San Bernardino County Board of Supervisors on February 27, 2007, following public review and comment. At that time, a Conditional Use Permit was also approved.</p> <p>On March 29, 2007, the Center for Biological Diversity and HelpHinkley.org served and filed a petition for a writ of mandate challenging the adequacy of the County of San Bernardino's EIR for Nursery Products' proposed composting facility. Judge Vander Feer issued an Order on April 11, 2008 that enjoined the County and Nursery Products from "proceeding with grading, construction, or any change or alteration to the physical environment, unless and until such time as the County has certified and adopted an EIR that complies with CEQA." The Writ ordered further review in two areas: (1) identification and analysis of water supply and (2) further evidence in the administrative record regarding the infeasibility of the enclosed facility alternative. In all other respects the CEQA analysis was sustained. Water quality impacts were analyzed in the EIR, specifically challenged but fully sustained by the Court.</p> <p>A supplemental draft EIR was issued for review by the County of San Bernardino and circulated for comment by the State Clearinghouse in July 2009 (State Clearinghouse Number 2006051021). The Final Supplemental EIR was accepted by the San Bernardino County Planning Commission on December 3, 2009.</p>

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m. (Continued)</b>		
	13. Center for Food Safety comments SEIR 2009 [SIC]	The Center for Food Safety asserts that the County's issuance of the Supplemental EIR is improper and that EPA's Part 503 Rule is inadequate. Regarding the issuance of the Supplemental EIR, please see the discussion in the previous response (Comment 12). Regarding CFR, title 40, Part 503, this is the current regulation for biosolids. Composting has been noted, both in Part 503 and in scientific studies, as a way to reduce contaminants in biosolids. Scientific studies have also indicated that while direct land application of biosolids can result in an increase of metals by plants, composting the biosolids prior to application prevents the uptake of metals by plants, thus keeping metals out of the food chain. The tentative Waste Discharge Requirements do not allow Nursery Products to apply biosolids directly to land. Rather, these Waste Discharge Requirements allow Nursery Products to use treated biosolids to produce compost.
	14. "Organic chemicals in sewage sludges", Harrison 2006 [SIC]	The study emphasized the need to analyze sewage sludges for organic compounds. While the study focused on sewage sludges applied to land as a fertilizer, the Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process. The Waste Discharge Requirements require Nursery Products collect samples for volatile organic compounds (VOCs), as specified in the Monitoring and Reporting Program.
	15. "Compost Fact Sheet #6", Cornell Waste Management Institute 2004/2005 [SIC]	This document provides information on various types of composting pad construction types. A compacted soil pad is appropriate in areas of low precipitation, with collection basins for stormwater run-off. As required in the Waste Discharge Requirements, Nursery Products will construct the pad sloped to prevent ponding, of compacted soil, and with basins (Surface Impoundments) to contain any stormwater on site.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 12:50 p.m. (Continued)</b>		
	16. Conner comments on DEIR, 2006 [SIC]	These comments concern the impact to desert tortoise and mojave ground squirrel, as well as a potential ammonia air plume. This concern is outside the authority of the Water Board.
	17. Conner comments on impact report [SIC]	In addition to the comments concerning the impact to desert tortoise and mojave ground squirrel noted in the comment above, the comments request enclosure of the Facility, and sterilization of the green waste. The Waste Discharge Requirements do not require Nursery Products to enclose the Facility; as evaluated in the EIR, the enclosure alternative was determined to be cost-prohibitive, nor is it required that the green waste be sterilized prior to use at this Facility.
<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m.</b>		
1	Please consider these comments and documents for your WDRs for Nursery Products LLC or any other Nursery Products or sewage sludge permits:	Please see below responses for each individual document attached to the email.
	1. Study finds chemicals in Biosolids, Gordon 2006 [SIC]	The results of the study indicated that there were detections of medicinal, industrial, and household chemicals in treated biosolids; however, the concentrations detected were not proven to be of concern. Comment noted.
	2. Beltsville Aerated Pile Composting System, 1980 [SIC]	The document discussed composting as a remediation technique. Composting was found to be relatively inexpensive and effective, but time consuming process of remediation. Further, the document concluded that composting is an effective remedy for the treatment of volatile organic compounds (VOCs), and prevents the uptake of metals by plants, thus keeping metals out of the food chain. Comment noted.
	3. "Targeted National Sewage Sludge Survey", EPA 2009 [SIC]	The EPA study listed 145 analytes found in sewage sludge, but does not provide concentrations of concern for those analytes. Comment noted.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m. (Continued)</b>		
	4. Green Action comments DEIR 2006 [SIC]	The document asserts opposition to the project, claiming that sludge is hazardous, the air quality will be impacted, and the project is environmentally unjust. The Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process; the biosolids are not to be accepted on site if analytical results show concentrations that would categorize the shipment as hazardous. No hazardous waste is to be allowed on site.
	5. "Have Risks Associated With the Presence of Synthetic Organic Contaminants in Land Applied Sewage Sludges Been Adequately Assessed?", Hale [SIC]	The article addresses land application of sewage sludge, identifies the need for additional data, and that emergent chemicals need to have risk assessment evaluated. The Waste Discharge Requirements do not allow Nursery Products to apply sewage sludge to land as a fertilizer; rather, the Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process.
	6. "Survey of Organic Wastewater Contaminants in Biosolids Destined for Land Application", Kinney 2006 [SIC]	The article addresses land application of sewage sludge. The Waste Discharge Requirements do not allow Nursery Products to apply sewage sludge to land as a fertilizer. The Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process.

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<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m. (Continued)</b>		
	7. "Levels of Gram-Negative Bacteria, <i>Aspergillus fumigatus</i> , Dust and Endotoxin at Compost Plants", Clark 1983 [SIC]	This study measured bacteria, dust, and endotoxin at compost plants. The number of <i>A. fumigatus</i> were lower at facilities that utilized a sludge-wood bark mixture than at those using domestic refuse and sludge. Gram-negative bacteria concentrations were higher at indoor solid waste facilities than at indoor or outdoor sites at wastewater treatment plants. Medical consequences of exposure to the materials studied are not known. The sludge used in the study was not specified to be treated, and if so to which levels as the study was conducted in Sweden and is not held accountable to the same standards as in the United States. The Waste Discharge Requirements allows Nursery Products to operate an outdoor compost facility using green waste, not domestic refuse, and treated biosolids. Comment noted.
	8. PCBs in Sewage made into compost, Milwaukee Journal Sentinel, Sept 18, 2007 [SIC]	The article discusses where sewage sludge can be applied based on levels of PCBs (whether land-applied or at a landfill). The Waste Discharge Requirements do not allow Nursery Products to apply sewage sludge to land as a fertilizer. The Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process.
	9. "Monitoring of Bioaerosol Emission from a Sludge Composting Facility", Chiang [SIC]	The article discusses bioaerosols monitored at a sludge composting facility, with an aerated static pile method, in an enclosed building, with samples collected near the fan in the roof. The zone of influence was found to be 1,500 meters. Nursery Products does not propose to enclose the Facility and they are not using an aerated static pile method. The nearest residence to the proposed Facility is 1.5 miles away or approximately 2,400 meters.

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<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m. (Continued)</b>		
	10. "Control of Odorous and Volatile Organic Compound Emissions from Composting Facilities" Williams [SIC]	The document suggests that turning an active windrow may release more odors than control. Odor control mechanisms available are discussed that are effective, but more practical for indoor use.
	11. "Organic Contaminants of Emerging Concern in Land-Applied Sewage Sludge (Biosolids)", Guardia [SIC]	The document concluded that while more data is still needed, emergent chemicals are not accounted for in the EPA 503 rule. The document discusses land application, but the Waste Discharge Requirements do not allow Nursery Products to apply sewage sludge to land as a fertilizer. The Waste Discharge Requirements allow Nursery Products to use treated biosolids in the composting process.
	12. Pillai comment on open air compost facilities dangers to downwind communities [SIC]	A portion of this document is missing. However, the document concluded that for sites that produce Class B compost, pathogens were detected up to 4 miles downwind. The Waste Discharge Requirements allow Nursery Products to create Class A compost. The goal of Class A requirements is to reduce pathogens to below detectable levels.
	13. "Bay Area Regional Biosolids to Energy Partnership", 2009 [SIC]	The article focuses on the need for renewable energy and biosolids management. Comment noted.

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<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m. (Continued)</b>		
	14. MWA comments on DEIR 2006 [SIC]	<p>The comments by MWA focus on water quantity. In most areas of California, overlying land owners may extract groundwater and put it to beneficial use without approval from the State Board or a court. California does not have a permit process for the regulation of groundwater use. However, groundwater use is subject to regulation in accordance with a court decree. Additionally, MWA commented on runoff issues with the Adelanto facility, and concentrations of coliform in the runoff from the Facility were in excess of standards. The Waste Discharge Requirements require that Nursery Products construct two Class II Surface Impoundments to contain runoff from the Facility. Additionally, Nursery Products is required to berm the entire Facility to divert stormwater from a 100-year, 24-hour event.</p>
	15. Dept of Public Health 2003 [SIC]	<p>This letter from the Department of Public Health to the California Integrated Waste Management Board notes violations as cited by City of Adelanto representatives. Violations noted include a lack of fire hydrants, street lighting, road improvements, building occupancy, and not using windrow method of composting. The installation of fire hydrants, street lighting, road improvements and building occupancy are outside the purview of the Water Quality Board. The Waste Discharge Requirements for the Hawes Composting Facility allow Nursery Products to operate the composting facility using the windrow method of composting.</p>

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<b>D. Norman Diaz, email received November 23, 2009, 1:58 p.m. (Continued)</b>		
	16. Dept of Health Services study of Adelanto Sludge dust blowing and regrowing [SIC]	The study noted health effects similar to those who have been exposed to biosolid-related exposures. EPA rule 503 does not regulate volatile organic compounds (VOCs), and runoff water from an adjacent site has detectable levels of coliform. However, due to a lack of data, the Department of Health Services could not conclude that health related complaints were caused by Nursery Products. Nursery Products will not be open to the public. As part of their sampling efforts, VOCs will be monitored at the site. The Waste Discharge Requirements require Nursery Products to construct Class II surface impoundments to contain stormwater. Furthermore, Nursery Products is required to berm the entire Facility to divert the stormwater from a 100-year, 24-hour storm event. The Waste Discharge Requirements also require that dust control measures be implemented so that dust does not blow off site.
<b>D. Norman Diaz, email received November 23, 2009, 2:08 p.m.</b>		
1	Please consider these comments and documents for your WDRs for Nursery Products LLC or any other Nursery Products or sewage sludge permits:	Please see below responses for each individual document attached to the email.
2	1. Pictures from the Legal paperwork in the City of Adelanto VS Nursery Products LLC. Shows wastewater spilling onto roadway and public streets. This was a much smaller facility than proposed for Hinkley. Did NPLLC have the same standards than [SIC] as being placed on them now?	The Nursery Products facility in Adelanto did not have the same permitting requirements as is being proposed for the Hawes Composting Facility. The Waste Discharge Requirements for the Hawes Composting Facility require Nursery Products to comply with California Code of Regulations, title 27, including the construction of Surface Impoundments to contain all stormwater on site. Additionally, Nursery Products is required to construct a berm around the entire Facility to divert stormwater around the facility and prevent runoff from storm events including a 100-year, 24-hour event.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 2:08 p.m. (Continued)</b>		
3	Did they violate Lahontan permits in Adelanto?	Waste Discharge Requirements were never issued for the Adelanto Nursery Products facility. However, the facility did obtain a General Permit for Discharges of Stormwater Associated With Industrial Activities. Stormwater complaints were investigated by Water Board staff for this facility.
4	Did Bio-Gro also violate Lahontan permits in Antelope Acres in the late 1990's?	Yes. In response to violations of Board Order No. 6-90-34, the Water Board issued Time Schedule Order No. 6-98-25 on April 17, 1998, requiring submission of a plan and time schedule to identify and implement compliance alternatives that eliminate threatened violations of the WDRs associated with floodwater runoff and inundation.
5	Shouldn't this material [SIC] be handled indoors to better contain the potential problems?	The Waste Discharge Requirements require Nursery Products to construct the Class II Surface Impoundments and the composting pad to completely contain all material on site, for the purposes of providing protection of water quality for beneficial uses. Requirements in the Waste Discharge Requirements such as dust control and odor monitoring are to preclude nuisance conditions from occurring.
6	The Hinkley facility is expecting 100 trucks a day on unpaved roads without truck washing facilities.	Comment noted. As part of the CUP, Nursery Products is required to either pave or maintain with gravel the access roads to the facility. Additionally, the CUP requires deliveries to be made in covered vehicles.
7	2. and 3. Legal documents from Adelanto showing violations and history of non-compliance and lack of regard of conditions set forth by permitting agencies. 2005	These documents are addressed below in responses to comments 8 and 9.
8	(attached but not specifically identified in comment) f-NurseryProductsacomplaint(2) [SIC].PDF	This document shows the settlement of the City of Adelanto and Nursery Products, regarding the abatement of nuisance, not meeting conditions of the Conditional Use Permit, meeting provisions for buildings, and the lack of landscaping, paving, and fire hydrants. While these were violations per the City of Adelanto that needed to be addressed, these issues are not related to water quality.

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<b>D. Norman Diaz, email received November 23, 2009, 2:08 p.m. (Continued)</b>		
9	(attached but not specifically identified in comment) g-NurseryProductsP.I.(Final).PDF	The document is the injunction to stop composting, and testimonies regarding odor and flies. The Waste Discharge Requirements requires Nursery Products implement an odor mitigation plan. Additionally, Nursery Products will contract with a company to address flies if necessary.
<b>D. Norman Diaz, email received November 23, 2009, 2:29 p.m.</b>		
1	Please consider these comments and documents for your WDRs for Nursery Products LLC or any other Nursery Products or sewage sludge permits:	Please see responses below for each individual document attached to the email.
2	A few enclosed cost effective sludge alternatives being started in Southern California shown here in these articles. If it is cost effective to build a \$200 million dollar facility in Banning for profit, then how can it be not cost effective in Hinkley?	The Facility proposed in Banning is to generate electricity. The Waste Discharge Requirements allow Nursery Products to create compost at the Hawes Facility. The purpose of the two projects is different, so comparison is inappropriate.
3	Where is the \$200 million Banning is spending on its facility compared with no cost to Nursery Products in Hinkley?	As the purpose of the two projects is different, comparison is inappropriate. Comment noted.
4	Why is Banning's local water given stronger safety measures over Hinkley's?	The Waste Discharge Requirements for Nursery Products protect water quality and beneficial uses, as well as prevent nuisance.
5	(attached but not specifically identified in comment) 071221 lost hills liberty.pdf	The article describes an existing composting facility that has proposed to add a sludge-burning facility for the purposes of generating electricity. Furthermore, the material stored at the facility in the article includes sludge, green waste, and food and animal wastes. This comment is not applicable to the project being permitted.
6	(attached but not specifically identified in comment) 080706 Banning plan.pdf	The document describes an electricity generation plant. Nursery Products has not proposed an electricity generation plant. This comment is not applicable to the project being permitted.

Comment Number	Comment	Response
<b>D. Norman Diaz, email received November 23, 2009, 2:29 p.m. (Continued)</b>		
7	(attached but not specifically identified in comment) 080707 rialto e-fuel.pdf	The document describes how sludge, with the combination of heat and pressure, will create pellets for fuel for power plants. Nursery Products has not proposed to construct such a facility. This comment is not applicable to the project being permitted.
8	(attached but not specifically identified in comment) 080814 coltonThermoEnergy, STORS.pdf	The document describes sludge processing into fuel. Nursery Products has not proposed to process sludge into fuel. This comment is not applicable to the project being permitted.
9	(attached but not specifically identified in comment) ABT Odor Controaeport F[1].pdf	The document describes an air analysis of an enclosed in-vessel composing facility in Redlands, California. This comment is not applicable to the project being permitted.
10	(attached but not specifically identified in comment) Beltsville Aerated Static Pile Composting-1.pdf	The document describes how, using the aerated static pile method, one can dispose of sludge and produce beneficial compost. This comment is not applicable to the project being permitted.
11	(attached but not specifically identified in comment) Compost operation on hold until renovations done   Courier PostOnline.com   Courier-Post.pdf	The article describes an existing facility that needed structural renovations due to moisture damage. This comment is not applicable to the project being permitted.
12	(attached but not specifically identified in comment) SlurryCarbOverview.pdf	The article describes how sludge, with the combination of heat and pressure, will create e-fuel. This comment is not applicable to the project being permitted.